

**MINUTES OF THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

Meyer v. ARG Enterprises, Inc., aka Stuart Anderson's Cattle Company Restaurants

Case No. 3:05-cv-0239 TMB

By: THE HONORABLE TIMOTHY M. BURGESS

PROCEEDINGS: ORDER FROM CHAMBERS

Plaintiff has filed a Motion for Clarification (Dkt. 75) regarding the Court's Order of September 28, 2007 (Dkt. 74). In her motion, Plaintiff states that the "Court's Order notes that expert testimony is not necessary in this matter and that questions regarding the fall are well within the common knowledge and experience of the jury," and therefore asks that Defendant's expert testimony also be excluded. However, Plaintiff's characterization of the Court's reasoning is overbroad. The Court's Order excluded Plaintiff's expert's testimony regarding building code regulations. The Court also noted that the question of whether uneven sidewalk creates a tripping hazard is well within the common knowledge and experience of the jury. Therefore, neither party will be permitted to submit expert testimony on this issue. However, it is the Court's understanding that Defendant's expert's testimony will be limited to the question of what caused the sidewalk's condition. This determination is not necessarily within the common knowledge and experience of the jury, and the Court sees no reason that it should be excluded. If Plaintiff has an expert prepared to testify on this subject, that testimony would likewise be admissible.

Defendant has also submitted a Request for Trial Setting Conference (Dkt. 76). The Court will schedule a conference for the purpose of setting a trial date.

IT IS HEREBY ORDERED: Plaintiff's Motion for Clarification (Dkt. 75) is GRANTED in part, in that the Court has provided the requested clarification, and DENIED in part, in that Defendant's expert testimony will not be excluded.

Defendant's Request for Trial Setting Conference (Dkt. 76) is GRANTED. A Status Hearing is set for October 26th, 2007 at 10:00 a.m. to set a date for trial and to address any outstanding issues.

Entered at the direction of the Honorable Timothy M. Burgess, United States District Judge.

DATE: October 12th, 2007